

## REMARKS

The Office Action mailed October 12, 2000 has been reviewed and the comments of the Patent and Trademark Office have been considered. Claims 1-6 are pending in the application and are submitted for reconsideration by the Examiner.

The drawings have been objected to because they do not illustrate a rotary decoder. However, Applicant asserts that the rotary decoder is described in an alternative embodiment of the invention shown in Figures 1-4. See page 13, lines 16-26. At the request of the Examiner, Applicant would generate a new figure illustrating the rotary decoder.

Claim 6 was rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The Applicant has amended the claims to provide sufficient antecedent basis for the phrases which the Examiner asserted were indefinite. Accordingly, the claims as amended are definite.

Claims 1,4 and 5 are rejected under 35 USC §102(b) as being anticipated by U.S. Patent No. 5,525,788 to Bridgelall *et al.* (Hereinafter "Bridgelall"). Applicant respectfully traverses the above rejection, insofar as it applies to the amended claims, for at least the following reasons.

The claimed invention relates to a symbol reading device, and particularly to an optical symbol reading device for reading symbols on the front and back surfaces of an article moved by a conveyor. The specification and figures 3 and 4 disclose a front surface and back surface symbol reading devices. Claim 1 has been amended to clearly illustrate this feature. In contrast, Bridgelall describes a system for scanning bar codes that uses an imaging camera. Bridgelall recites a rotator/translator that rotates one camera to various points in order to obtain a new scan of the bar code. Bridgelall does not teach separate front and back surface symbol reading devices. Therefore, claims 1, 4 and 5 are allowable over Bridgelall.

Claim 3 is rejected under 35 U.S.C §103(a) as being unpatentable over US Patent No. 5,525,788 to Bridgelall *et al.* (Hereinafter "Bridgelall")

Applicant agrees with the Examiner's assertion that Bridgelall fails to teach means provided with a rotary encoder that is attached to the conveyor, for finding the position of

the front surface of the article by counting pulses from the rotary encoder and measuring a distance of movement of the conveyor.

The Examiner asserts that using a rotary encoder to find a position by counting pulses, was well known in the art. The Examiner states that it is an obvious variation in the means for measuring a distance of the movement of the conveyor. Applicant respectfully disagrees. Bridgelall provides no motivation that one of ordinary skill in the art would modify this reference. "To establish a *prima facie* case of obviousness ... there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings." In Re Vaeck, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). The Office Action does not cite to the references themselves or the knowledge generally available to one of ordinary skill in the art any suggestion or motivation to combine or modify the references. Bridgelall describes a belt speed indicator; however, there is no language in the reference that would motivate one of ordinary skill to implement the claimed rotary encoder. Also, the Examiner has provided no evidence that the claimed rotary encoder was well known in the art. Accordingly, claim 3 is considered allowable over Bridgelall.

Claims 2-6 depend ultimately from respective independent claim 1 are, therefore, patentable for at least that reason. In addition, they recite other patentable features that are not taught or suggested by the relied-upon art, when considered as a whole. References Nishimura *et al.* and Jones *et al.* do not cure the deficiencies of Bridglall. The references do not teach or suggest the features of amended claims 1. Therefore claims 1-6 are allowable over the relied-upon art.

In view of the foregoing amendments and remarks, applicants respectfully submit that all of the pending claims are now in condition for allowance. An early notice to this effect is earnestly solicited.

If there are any questions regarding the application, the examiner is invited to contact the undersigned attorney at the local telephone number below.

Respectfully submitted,

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